IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

CRP.No. 418 of 2006(E)

AGAINST THE ORDER DATED 7 /4 /06 IN EP 46/ 2005 IN OS.639/2001 of MUNSIFF COURT, CHITTUR

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REVN. PETITIONER: 3RD JUDGMENT DEBTOR:

R. KASIPANDIAN, S/O. RAJENDRAN,
KANNIMARI, PATTANCHERY VILLAGE, CHITTUR,PALAKKAD.

BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS: DECREE HOLDER/1ST JUDGMENT DEBTOR:

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1. K. PREMAKUMAR, S/O. KITTA,
POOLAKKAL VEEDU, PARAKKAL, THEKKEDESOM,
CHITTUR, PALAKKAD.

2. RAJENDRAN, S/O. KRISHNAN NADAR,
KANNIMARI, PATTANCHERRY, CHITTUR, PALAKKAD DIST.

BY ADV. SRI.A.R.GANGADAS

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P.418/06

ORDER IN I.A.1682/06 IN C.R.P.418/06

DISMISSED.

20.12.06 SD/-M.SASIDHARAN NAMBIAR, JUDGE.

M.SASIDHARAN NAMBIAR,J.

C.R.P.NO.418 OF 2006

DATED THIS THE 20th DAY OF DECEMBER, 2006

ORDER

Petitioner is third judgment debtor and first respondent is the decree holder and second respondent first judgment debtor in O.S.639/01 on the file of Munsiff Court, Chittur. Petitioner is challenging the order of the executing Court that he has sufficient means. Case of petitioner is that he has no means and the finding of learned Munsiff that petitioner has sufficient means is as against the evidence and as he has no means he cannot be arrested.

2. Learned Counsel appearing for petitioner and respondents were heard.

3. The impugned order shows that before the executing Court, petitioner was examined as Rw1and decree holder was examined as PW1. On appreciating the evidence of RW1, learned Munsiff found that his case that he has no means is not correct. Though decree holder could not adduce evidence to establish the business of judgment debtors, on the evidence learned Munsiff found that petitioner has sufficient means. I do not find any infirmity in that order, as it was based on appreciation of evidence.

The amount due under the decree is Rs.73,000/-. As per order dated 28.6.06, petitioner had already deposited Rs.15,000/- before the executing Court. Petitioner is permitted to pay the balance decree debt in fifteen equal monthly instalments. If petitioner commits default in payment of two consecutive instalments, decree holder is at liberty to move the executing Court for his arrest.

M.SASIDHARAN NAMBIAR,JUDGE

Acd